IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 5403 OF 2005

Eruch Dorabshaw Master ...Applicant

Versus

Abdul Wahid Khan & Anr ...Respondents

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Mr. C.K.Pendse i/b Mr. P.B. Patil, Advocate for Applicant

Mr. Suresh Bhosale, Adv. for Respondent No.1.

Ms.S.V. Gajare, A.P.P.for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 19TH OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the applicant, the learned advocate for respondent No.1 i.e. original complainant and the learned A.P.P. for the State.

2. The applicant has prayed for quashing of process issued against him in Criminal Case No.742/S/2002 which is pending in the Court of learned Metropolitan Magistrate, 13th Court, Dadar, Mumbai. In the said case, process has been issued against the applicant under Section 138 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap Vs. Padode and Anr, reported in 2005(3) Mh.L.J.**

778, in my opinion, the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer revision before the concerned Sessions Court. The learned advocate for the applicant states that the necessary revision would be preferred within a period of five weeks from today. I am informed that the date before the trial Court is on 8.11.2005. In view of this statement, the trial Court shall not proceed with the trial on 8.11.2005 and for a period of three weeks thereafter. The learned advocate for the respondent No.1 i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Application is disposed of.

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